



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS  
ATTORNEY GENERAL

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December 3, 1997

Lauren J. Caster  
Fennemore Craig, P.C.  
3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 8012-2913

Re: *Board of Appeals A.B. Nos. 997, 998, 999, 1000, 1001*

Dear Mr. Caster:

This letter is in regard to the upcoming appeals of the appraised values of groundwater under State Land Department application numbers 21-102152, 21-102153, 21-102154, 21-102155 and 21-102156. My client has asked me to send you a copy of the sales report for auctions of groundwater held in September of 1997. In both auctions of groundwater held, the water was sold at the appraised value of \$85.00 per acre foot. The sales report and the notice of sale are attached for your information.

In addition to the list of witnesses and exhibits required by the Rules of the Board of Appeals, I am planning on submitting to the Board a motion to consolidate the hearings on the five appraisals. If you would like to join in that motion or discuss it further, please call me at 542-7789. Thank you.

Sincerely yours,

Karen E. Baerst  
Assistant Attorney General  
Land and Natural Resources Section

enclosures

cc: Cynthia Stefanovic

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ACTION \_\_\_\_\_

PDC000529

SALES REPORTS OF MISCELLANEOUS AUCTIONS  
HELD IN: September 1997

APPLICANT NAME	PRODUCT	SALE DATE	APPR VALUE PER UNIT	UNITS	LEGAL	SUCCESSFUL BIDDER	# OF BIDS	TOTAL SELLING PRICE	TERMS
21-98070 ASARCO, Inc.	Water	9/17	\$85.00 ac/ft	161.2 ac/ft	SWNESW Sec 27 T2S R13E Pinal County	ASARCO, Inc.	1	\$13,702.00	Cash
21-99057 Dorionous Investments	Water	9/17	\$85.00 ac/ft	63 ac/ft	N2N2NWSW Sec 14 T10S R14E Pinal County	Biosphere 2 Center, Inc.	1	\$5,355.00	Cash

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ARIZONA STATE LAND DEPARTMENT  
1616 WEST ADAMS  
PHOENIX, ARIZONA 85007

PUBLIC AUCTION SALE NOS. 21-98070 & 21-99057

Pursuant to Title 37 A.R.S., notice is hereby given that the state of Arizona, through the Arizona State Land Department, hereby offers for sale and will sell at public auction at 11:00 a.m. on Wednesday, September 17, 1997, at the east entrance to the Pinal County Administration Building #1, 31 N. Pinal Street, Florence, Arizona, authorization to remove water for a term of 10 years from the following described lands, in Pinal County, to wit:

**21-98070**

TOWNSHIP 2 SOUTH, RANGE 13 EAST, G&SRM, PINAL COUNTY, ARIZONA

**PARCEL FROM WHICH WATER IS TO BE REMOVED:**

SW4NE4SW4, SECTION 27, CONTAINING 10.00 ACRES MORE OR LESS.

**21-99057**

TOWNSHIP 10 SOUTH, RANGE 14 EAST, G&SRM, PINAL COUNTY, ARIZONA

**PARCEL FROM WHICH WATER IS TO BE REMOVED:**

N2N2NWSW, SECTION 14, CONTAINING 10.00 ACRES MORE OR LESS.

The complete files associated with the described land are open to public inspection at the State Land Department, 1616 West Adams, Phoenix, Arizona, from 8:00 a.m. to 5:00 p.m., exclusive of holidays and weekends. Please direct any questions regarding these Public Auction sales to the Sales Section of this Department.

**TERMS OF SALE FOR SALE NO. 21-98070:** (A) *At the time of sale*, the buyer must pay the following in a cashiers check: (1) the first annual royalty of \$13,702.00 for a minimum annual removal of 161.20 acre feet at \$85.00 per acre foot. (2) selling and administrative fee of 3% of the minimum annual royalty, which is \$411.00, (3) appraisal fee of \$175.00. The total amount due at the time of sale is \$14,288.00.

(B) Within 30 days after the time of sale the buyer must pay the full balance of the amount bid for the water and pay for (Selling and Administrative Expenses fee) 3% of the purchase price for the water less the amount paid under (A) (2) above.

(C) Within 10 days after the time of sale, the successful bidder shall be required to reimburse the applicant for prepaid estimated advertising fees of \$2,000.00. In addition to the estimated \$2,000.00, the successful bidder shall be required to pay actual advertising cost over and above the estimated amount.

(D) A minimum annual royalty of \$13,702.00 or more and a 3% Selling and Administrative fee of \$411.00 or more, depending on the value of the water, shall be due and payable in advance on each anniversary of the Sales Agreement. Buyer will be billed monthly for each acre foot of water which exceeds the minimum purchase.

TERMS OF SALE FOR SALE NO. 21-99057: (A) *At the time of sale*, the buyer must pay the following in a cashiers check: (1) the first annual royalty of \$5,355.00 for a minimum annual removal of 63 acre feet at \$85.00 per acre foot, (2) selling and administrative fee of 3% of the minimum annual royalty, which is \$161.00, ~~(3) appraisal fee of \$175.00,~~ (4) Estimated advertising fees of \$2,000.00. The total amount due at the time of sale is \$7,691.00.

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(B) Within 30 days after the time of sale the buyer must pay the full balance of the amount bid for the water and pay for (Selling and Administrative Expenses fee) 3% of the purchase price for the water less the amount paid under (A) (2) above.

(C) Within 10 days after the sale, the successful bidder shall be required to pay the State Land Department for the actual advertising cost over and above the estimated amount.

(D) A minimum annual royalty of \$5,355.00 or more and a 3% Selling and Administrative fee of \$161.00 or more, depending on the value of the water, shall be due and payable in advance on each anniversary of the Sales Agreement. Buyer will be billed monthly for each acre foot of water which exceeds the minimum purchase. Type 2 Water Right Certificate No. 58-107072.0000 is for 63 acre feet, and Buyer may not withdraw in excess of 63 acre feet without a water right authorizing such withdrawal. Buyer shall not withdraw water in excess of the maximum amount permitted by the Arizona Department of Water Resources.

#### CONDITIONS FOR SALES NOS. 21-98070 & 21-99057

(1) The successful bidder agrees to execute the Department's Water Agreement within 30 days of receipt, and to perform all the terms, covenants, and conditions thereof.

(2) The highest and best bidder shall be determined on the basis of the bidder who pays forthwith the cash deposit and offers the highest royalty rate per acre foot for the water to be removed from the State land described herein.

(3) If the parcel from which water is to be removed is under a commercial lease at the time of sale, lessee will surrender the lease. The Buyer must reimburse the lessee for improvements, and must obtain a permit or a leasehold interest in the parcel, along with any necessary easements prior to removal of water.

#### BIDDING PROCEDURES FOR SALE NOS. 21-98070 & 21-99057

(1) All bidders will be required to show proof of a cashier's check in the amount specified under "Terms of Sale" prior to bidding.

(2) The auction will consist of verbal bidding based on price per acre foot.

(3) A bid for less than the appraised value of the water or by a party who has not previously inspected the property will not be considered. The buyer must sign an affidavit stating that buyer has inspected the property.

PUBLIC AUCTION SALE NOS. 21-98070 & 21-99057

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(4) The Department may cancel either sale in whole or in part at any time prior to the acceptance of a final bid.

In the event no bids are received at the time of auction, no reimbursement will be paid to the applicant by the Department for the advertising fee.

A protest to either sale must be filed within 30 days after the first day of publication of this announcement and in accordance with Article 4.1 of A.R.S. 37-301.

Additional requirements and conditions of either sale are available and may be viewed at the Arizona State Land Department, 1616 West Adams Street, Phoenix, Arizona.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Lerry Goldberg, ADA Coordinator, at (602) 542-4634. Requests should be made as early as possible to allow time to arrange the accommodation.

  
Sandra R. Jacobs  
(for) J. Dennis Wells  
State Land Commissioner

June 30 1997  
Date

